

**[CDA MEMORANDUM CIRCULAR NO. 2010-07,
August 24, 2010]**

**GUIDELINES ON THE PROCEDURE FOR VOLUNTARY
ARBITRATION IN THE COOPERATIVE DEVELOPMENT AUTHORITY
(CDA)**

Pursuant to Art. 137 of Republic Act No. 9520, this Authority hereby adopts and promulgates the guidelines on the procedure for voluntary arbitration in the CDA as the primary and exclusive mode for dispute resolution in accordance with the Alternative Dispute Resolution Act of 2004.

SECTION 1. Title - This shall be known as the Guidelines on Procedure for Voluntary Arbitration in the Cooperative Development Authority (CDA).

SECTION 2. Definition of Terms - The following terms are defined as follows:

1. Alternative Dispute Resolution – shall refer to any process or procedure used to resolve a dispute or controversy, other than by adjudication of a presiding judge of a Court or an officer of a government agency, in which a neutral third party participates to assist in the resolution of issues, which includes arbitration, mediation, conciliation, early neutral evaluation, mini trial, or any combination thereof.
2. Award/Decision – shall refer to any partial or final decision by an Arbitrator in resolving the issue in a controversy.
3. Dispute - shall refer to intra/inter cooperative controversy or grievance arising from any violation or disagreement over any provisions, including any violations of the rights and conditions of membership provided in the cooperative by-laws and/or in the Cooperative Code, which may be the subject of a formal or informal request for conciliation/ mediation or arbitration sought by either one or both parties.
4. Settlement – shall refer to any compromise or arrangement between disputants to settle the matters in dispute and thus dispose of the controversy. The term may be used in the sense of “payment” or “adjustment” depending upon the circumstances under which, and the connection in which, use of the term is made.
5. Voluntary Arbitration – shall refer to a dispute resolution process wherein any intra/inter cooperative disputes is settled by a voluntary arbitrator/s chosen by the disputing parties from a list of qualified and accredited arbitrators, who shall decide on the merits of the case by rendering an award.
6. Voluntary Arbitrator/s – shall refer to any authorized employee of the Authority or an accredited private individual chosen by the parties to hear, decide, and render an award in a dispute.

SECTION 3. Applicability of these Guidelines - These Guidelines shall primarily govern the voluntary arbitration proceedings however, the parties may agree on other proceedings provided it is not contrary to law, these guidelines, the ADR Law and other administrative issuances. The Revised Rules of Court shall apply by analogy or in a suppletory character and effect.

SECTION 4. Exclusive and Original Jurisdiction of the Voluntary Arbitrator/s - The Voluntary Arbitrator/s mutually chosen by the parties shall have exclusive and original jurisdiction over the dispute, and his/her decision shall be appealable to the Office of the President of the Republic of the Philippines.

SECTION 5. Powers and Authority of the Voluntary Arbitrator/s - The Voluntary Arbitrator/s shall have the following powers and authority:

1. To hold hearings and to receive evidence necessary to resolve the issue/s subject to the dispute.
2. To require any person to attend hearing/s as witness or to cause production of documents when the relevancy and the materiality thereof are vital to the resolution of the case.
3. To administer oath.
4. To cite in contempt any person disturbing the proceeding and/or who willfully defy lawful orders of the Voluntary Arbitrator/s
5. To issue a Writ of Execution, if necessary.
6. To exercise such other powers and functions as may be necessary to resolve the dispute.

SECTION 6. Nature of Proceedings - Voluntary Arbitration is an administrative proceeding. The technical rules applicable to court or judicial proceedings may not strictly apply. However, the requirements of due process must be observed at all times. The hearing may proceed even in the absence of any party, provided the parties were duly notified and their failure to appear in such scheduled meeting is unjustified as determined by the voluntary arbitrator/s handling the proceedings.

SECTION 7. Who May File the Complaint - Any party to intra/inter cooperative disputes not resolved amicably in accordance with the Conciliation-Mediation Mechanisms embodied in the By-Laws of a cooperative may file a complaint.

SECTION 8. When the Complaint May be Filed - The verified complaint shall be filed within forty-five (45) days from the issuance of the Certificate of Non-Settlement in accordance with the provision of Section 13 of these Guidelines. Complaints filed beyond this period shall be dismissed outrightly for being filed out of time.

SECTION 9. Where to File the Complaint - All complaint relative to the voluntary arbitration case shall be filed directly with CDA Extension Office having administrative jurisdiction over the cooperatives. No complaint shall be filed directly with the CDA-Central Office save complaints involving cooperatives under its primary and exclusive jurisdiction.

SECTION 10. Contents of the Complaint - The complaint shall contain the following:

1. The names and addresses of the complainant/s and respondent/s;
2. A brief description of the complaint and the documentary evidences, if any;
3. The relief prayed for.

SECTION 11. Parties to the Complaint – In all cases submitted to voluntary arbitration the aggrieved party shall be called “Complainant” and the opposing party the “Respondent”.

The full names of the parties, as far as they are known, shall be stated in the original caption of the original pleading, award or decision and in all summons, notices and processes to be served upon them.

SECTION 12. Caption and Title - The complaint shall, as far as practicable, be filed in accordance with the following caption:

**REPUBLIC OF THE PHILIPPINES
COOPERATIVES DEVELOPMENT AUTHORITY
Central Office/Extension Office**

IN RE: VOLUNTARY ARBITRATION CASE BETWEEN

Complainant/s

Case No. VAC-E0 - _____

For:

-versus-

Respondent/s

X _____X

SECTION 13. Commencement of Action - Any party of a dispute not resolved through conciliation-mediation proceedings in the primary and union/federation level can commence action for voluntary arbitration by filing a verified complaint with the Authority in three (3) original copies and upon payment of filing fee in accordance with the Schedule of Fees of the Authority.

The complaint shall be accompanied by Certificate of Non-Settlement issued by the Federation/Union if the primary cooperative has an affiliation or if none, by a Certificate of Non-Settlement issued by the Conciliation-Mediation Committee of the cooperative itself together with a Certification of No Affiliation signed by the Chairperson of the Board of Directors of the same cooperative.

A Certification against Forum Shopping shall be appended to the complaint.

SECTION 14. Procedures before the Authority – Upon receipt of the verified complaint, the following steps shall be undertaken by the Legal Division/Section:

1. Issuance of Notice/Summons to the Respondents - The Authority shall issue a Notice/Summons to the Respondent/s to File Answer/Comments.
2. Filing of Answer/Comment - The Answer/Comment of the Respondent must be filed within fifteen (15) days from receipt of the Notice/Summons.

3. Preliminary Conference - A Notice shall be sent to all parties concerned indicating the time and date of the conference. The Notice shall be served on counsel or on the party who has no counsel. It shall be the duty of the parties or their counsel to appear at the preliminary conference. The non-appearance of a party may be excused only if a valid cause is shown therefore or if a representative shall appear in his/her behalf fully authorized in writing. The unjustified failure of the complainant to appear in the preliminary conference shall be cause for dismissal of the complaint. A similar failure on the part of the Respondent at the first instance, a second notice/summons shall be issued. Non-compliance with the second notice/summons by the Respondent/s shall be cause for the dismissal of the complaint. However, a Certificate of Non-Resolution may be issued upon the request of the Complainant.

Whenever the Respondent/s whereabouts are unknown or cannot be ascertained by diligent inquiry, the Notice may be effected by publication in a newspaper of general circulation at the expense of the complainant, otherwise the complaint shall be dismissed. However, a Certificate of Non-Resolution may be issued to the complainant.

4. Conference Proper - During the conference the parties shall be encouraged to explore all possible means of effecting a voluntary settlement of the dispute between them. Should the parties arrive at any agreement, the same shall be reduced in writing and signed by the parties before the CDA Legal Division/Section assisting the same. In the absence of any voluntary settlement, the following steps shall be followed:

a. Signing of the Submission Agreement - Should the parties appear in the preliminary conference, the parties shall be required to sign a Submission Agreement (ANNEX A*).

b. The Agreement shall contain, among other things, the following matters:

1. The agreement to submit to Voluntary Arbitration;
2. The specific issue/s or dispute/s to be submitted for resolution;
3. The name of the voluntary arbitrator/s chosen by the parties;
4. The manner of paying the cost of arbitration proceedings including the arbitrator's fee;
5. The name of the public official whom the parties may designate to execute the final decision or award, if necessary; and
6. The agreement to perform or abide by the decision/award.

c. Selection of the Voluntary Arbitrator/s - The Authority may assist the disputants in selecting a mutually acceptable voluntary arbitrator/s from the list of qualified voluntary arbitrator/s. The parties are free to determine the number of arbitrators, which may be a sole arbitrator or may be composed of three, one chosen by the complainant, the other chosen by the respondent and the third chosen by both parties.

Any person appointed as voluntary arbitrator/s shall possess the following qualifications:

- a. He must not be related by consanguinity or affinity within the sixth civil degree to either party to controversy;